



State of Utah

Department of  
Environmental Quality

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*Executive Director*

DIVISION OF AIR QUALITY  
Cheryl Heying  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

DAQ-050-08

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Cheryl Heying, Executive Secretary

**FROM:** Glade Sowards, Energy Program Coordinator

**DATE:** August 6, 2008

**SUBJECT:** FINAL ADOPTION: Add New Rule R307-123, Clean Fuels and Vehicle Technology Grant and Loan Program and Amend R307-121, General Requirements: Clean Fuel Vehicle Tax Credits.

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On May 7, 2008, the Board proposed for public comment a new rule R307-123 and a revision to R307-121. A public hearing was held on June 20, 2008, and the comment period ended on July 1. The following is a summary of the comments and UDAQ's responses.

**Comment 1 (John Mitton, Natural Drive Partners):**

The Board should consider extending the grant and loan program as well as the alternative fuel tax credits to include not only vehicles which have valid EPA certifications of conformity, but also vehicles which have been granted Testing Exemptions from EPA.

**Response:**

The intent of this program is to provide an incentive for taxpayers to convert their vehicles to use a cleaner burning fuel or to buy a vehicle that was built by an original equipment manufacturer (OEM) to run on a cleaner burning fuel. To demonstrate that the converted vehicle is cleaner than before the conversion, Utah Code 59-7-605 and 59-10-1009 require one of the following as proof of certification:

- a certification of the conversion equipment by the federal Environmental Protection Agency, or
- a certification of the conversion equipment by a state whose certification standards are recognized by the board, or
- testing the motor vehicle before and after installation of the conversion equipment in accordance with 40 CFR Part 86, or
- any other test or standard recognized by board rule.

The testing exemption would not qualify under any of these categories. To allow this would require a change in Utah Code.

**Comment 2 (John Mitton, Natural Drive Partners):**

The Board might also consider mirroring the federal statute in providing that the seller of the vehicle or conversion could capture the tax credit in the event the buyer is a non-taxpaying entity such as a municipality that is converting a fleet to an alternative fuel.

Response:

Utah Code 59-7-605 (3) and 59-10-1009 (3) only extends this tax credit to a claimant, estate, or trust that has purchased the vehicle. Mr. Mitton's proposal would require a change in the Utah Code that would allow the seller to claim the tax credit if the buyer is unable. The Grant and Loan Program was created to allow non-taxpaying entities a way of offsetting the cost of buying alternative fuels.

**Comment 3 (Kathy Van Dame, Wasatch Clean Air Coalition):**

There seem to be some inconsistencies between R307-121 and R307-123 in Sections -4(4)(a) and (b).

Response:

UDAQ agrees and proposes to change the language in 307-123 to match the language in R307-121.

Staff Recommendations: Staff recommends that R307-121 be adopted as proposed and that R307-123 be adopted with the amendments to the proposed rules.

**Environmental Quality, Air Quality.****R307-123. General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program.****R307-123-1. Authorization and Purpose.**

This rule is authorized by Section 19-1-405, which establishes criteria and definitions used to determine eligibility for use of the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403. R307-123 establishes procedures to provide proof of purchase to the Board for an OEM vehicle, or the conversion or retrofit of a vehicle for which a grant or loan made with the monies available in the Fund is allowed under Subsection 19-1-403(2)(a). Eligible technologies are required to meet the criteria and follow the procedures established in R305-4.

**R307-123-2. Definitions.**

Definitions. The following additional definitions apply to R307-123.

"Certified by the Board" means that:

(1) A motor vehicle on which conversion equipment has been installed meets the criteria in Subsection 19-1-405(1)(a) and demonstrates a reduction in emissions as defined in Subsection 19-1-405(2); or

(2) A motor vehicle on which a retrofit has been installed meets the following criteria:

(a) the motor vehicle's emissions of regulated pollutants, when operating with the retrofit equipment, is less than the emissions were before the installation of the retrofit equipment; and

(b) a reduction in emissions under Subsection R307-123-2(2)(a) is demonstrated by:

(i) certification of the retrofit by the federal EPA or by a state whose certification standards are recognized by the Board; or

(ii) any other test or standard recognized by the Board.

"Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).

"Clean fuel vehicle" means clean fuel vehicle as defined in Subsection 19-1-402(2).

"Conversion equipment" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or special mobile equipment to make that vehicle or equipment eligible.

"Manufacturer's Statement of Origin" means a certificate showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser.

"Original equipment manufacturer (OEM) vehicle" means OEM vehicle as defined in Subsection 19-1-402(8).

"Retrofit" means retrofit as defined in Subsection 19-1-402(11).

"Retrofit equipment" means a diesel oxidation catalyst, a diesel particulate filter, or a closed crankcase filtration system, that has been approved for use in engine retrofit programs by the federal EPA or by a state whose testing protocols

1 are recognized by the Board.

2  
3 **R307-123-3. Demonstration of Eligibility for OEM Vehicles.**

4 To demonstrate that a vehicle is eligible, proof of purchase  
5 shall be made by submitting the following documentation to the  
6 executive secretary:

7 (1)(a) A copy of the Manufacturer's Statement of Origin or  
8 equivalent manufacturer's documentation showing that the vehicle  
9 is an OEM vehicle; or

10 (b) a signed statement by an Automotive Service Excellence  
11 (ASE) certified technician that includes the vehicle  
12 identification number(VIN)and states that the vehicle is an OEM  
13 vehicle;

14 (2) An original or copy of the purchase order, customer  
15 invoice, or receipt including the VIN; and

16 (3) A copy of the current Utah vehicle registration, which  
17 shows that the vehicle is registered in the applicants name.  
18

19 **R307-123-4. Demonstration of Eligibility for Vehicles Converted  
20 to Clean Fuels.**

21 To demonstrate that a conversion of a motor vehicle fueled  
22 by clean fuel is eligible, proof of purchase shall be made by  
23 submitting the following documentation to the executive  
24 secretary:

25 (1) the VIN;

26 (2) the fuel type before conversion;

27 (3) the fuel type after conversion;

28 (4)(a) If the vehicle is registered within a county with an  
29 inspection and maintenance (I/M) program, a copy of the vehicle  
30 inspection report from an approved station showing that the  
31 converted clean fuel vehicle meets all county emissions  
32 requirements for all installed fuel systems; or

33 (b) in all other areas of the State a signed statement by  
34 an ASE certified technician that includes the VIN and states that  
35 the conversion is functional;

36 (5) each of the following:

37 (a) the conversion equipment manufacturer,

38 (b) the conversion equipment model number,

39 (c) the date of the conversion, and

40 (d) the name, address, and phone number of the person that  
41 converted the vehicle;

42 (6) proof that the conversion is certified by the Board;

43 (7) an original or copy of the purchase order, customer  
44 invoice, or receipt; and

45 (8) a copy of the current Utah vehicle registration, which  
46 shows that the vehicle is registered in the applicants name.  
47

48 **R307-123-5. Demonstration of Eligibility for Retrofitted  
49 Vehicles.**

50 To demonstrate that a retrofit of a motor vehicle is  
51 eligible, proof of purchase shall be made by submitting the  
52 following documentation to the executive secretary:

53 (1) the VIN;

54 (2) each of the following:

- 1 (a) the retrofit equipment manufacturer,
- 2 (b) the retrofit equipment model number,
- 3 (c) the date of the retrofit, and
- 4 (d) the name, address, and phone number of the person that
- 5 retrofitted the vehicle;
- 6 (5) proof that the retrofit is certified by the Board;
- 7 (6) an original or copy of the purchase order, customer
- 8 invoice, or receipt; and
- 9 (7) a copy of the current Utah vehicle registration.

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11  
12 **KEY: air pollution, alternative fuels, grants and loans, motor**  
13 **vehicles**

14 **Date of Enactment or Last Substantive Amendment: 2008**

15 **Notice of Continuation: 2008**

16 **Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-**  
17 **401; 59-7-605; 59-10-1009**

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19

(4)(a) if the vehicle is registered within a county with an inspection and maintenance (I/M) program, a copy of the vehicle inspection report from an approved station showing that the converted ~~alternate~~ clean fuel vehicle meets all county emissions requirements for all installed fuel systems, or

(b) in all other areas of the State a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional;

(5) each of the following:

(a) the conversion ~~system~~ equipment manufacturer,

(b) the conversion ~~system~~ equipment model number,

(c) the date of the conversion, and

(d) the name, address, and phone number of the person that converted the vehicle;

(6) proof of certification required in 59-10-1009(1)(b) or 59-7-605(1)(b); ~~and~~

(7) an original or copy of the purchase order, customer invoice, or receipt; and

~~(7)~~(8) a copy of the current Utah vehicle registration.

#### **R307-121-5. ~~Proceeds of~~ Demonstration of Eligibility for Special Mobile Equipment Converted to Clean Fuels.**

To demonstrate that a conversion of special mobile equipment to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) a description, including serial number, of the special mobile equipment for which credit is to be claimed;

(2) the fuel type before conversion;

(3) the fuel type after conversion;

(4) the conversion ~~system~~ equipment manufacturer and model number;

(5) the date of the conversion;

(6) the name, address and phone number of the person that converted the special mobile equipment; and

(7) an original or copy of the purchase order, customer invoice, or receipt; and

~~(7)~~(8) proof of certification required in 59-10-1009(1)(b) or 59-7-605(1)(b).

**KEY:** air pollution, alternative fuels, tax credits, motor vehicles  
Date of Enactment or Last Substantive Amendment: ~~July 13, 2007~~ 2008

Notice of Continuation: July 13, 2007

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-402; 59-7-605; 59-10-1009

## **Environmental Quality, Air Quality**

# **R307-123**

## **General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program**

### **NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 31390

FILED: 05/07/2008, 15:27

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of Rule R307-123 is to specify the requirements for qualifying technologies to be awarded grant and loan monies from the Clean Fuels and Vehicle Technology Fund. The procedures for providing grants and loans for qualifying technologies from the Fund can be found under Rule R305-4 (see separate filing on Rule R305-4, in this issue). (DAR NOTE: The proposed new Rule R305-4 is found under DAR No. 31391 in this issue, June 1, 2008, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The Clean Fuels and Vehicle Technology Program Act, Sections 19-1-401 through 19-1-405, creates the Clean Fuels and Vehicle Technology Fund in Section 19-1-403. Section 19-1-405 authorizes the Air Quality Board to make rules to establish state-wide eligibility requirements for technologies qualified to be awarded grant and loan monies from the Fund. The Division of Air Quality (DAQ) staff created Rule R307-123 to specify these requirements. As proposed, the rule defines certification criteria and proof of purchase requirements for eligible technology. A summary of the provisions included in Rule R307-123 are as follows: 1) eligible equipment to receive monies from the fund are specified as new original equipment manufacturer (OEM) vehicles, motor vehicles that have been converted to use a clean fuel, and motor vehicles that have been retrofitted to reduce pollution emissions; 2) certification criteria for motor vehicle conversions, including pollution reduction requirements, are defined in the enabling statute, Section 19-1-405; 3) certification criteria and for motor vehicle retrofits, including pollution reduction requirements and eligible technology, are defined; and 4) proof of purchase requirements for eligible equipment are specified. Section 19-1-404 of the Act authorizes the Department of Environment Quality (DEQ) to establish the procedures for providing grants and loans for qualifying technologies from the Clean Fuels and Vehicle Technology Fund. The DEQ is proposing Rule R305-4 (see separate filing on Rule R305-4 in this issue) to specify these procedures.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 19-2-104 and 19-1-401

### **ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no change in costs for the state budget, because costs for administering the program are already allocated from the Fund and nominal fees for purchasing credit reports for applicants will be recouped from application fees. State government entities that wish to apply for the program are subject to application fees of \$140 for loan applications, \$280 for grant applications, and \$350 for infrastructure applications. Because this is a new program, the actual amount of applications is unknown at this time.

❖ **LOCAL GOVERNMENTS:** There is no change in costs for sources owned or operated by local government. However, local government entities that wish to apply for the program

are subject to application fees of \$140 for loan applications, \$280 for grant applications, and \$350 for infrastructure applications. Because this is a new program we are unable to estimate how many government agencies will apply for money from this program.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small Businesses: No change in costs is expected for small business. However, small businesses that wish to apply for the program are subject to application fees of \$140 for loan applications, \$280 for grant applications, and \$350 for infrastructure applications. Because this is a new program we are unable to estimate how many small businesses will apply for money from this program.

Other Persons: Because the rule is only applicable to the private business and government sectors, no change in costs is expected for other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No change in costs is expected for affected persons. However, any business or government entity that wishes to apply for the program is subject to application fees of \$140 for loan applications, \$280 for grant applications, and \$350 for infrastructure applications.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no requirements for businesses, or state or local government, therefore no change in costs is expected. Those entities that wish to apply for the program will be subject to nominal application fees. Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/20/2008 at 2:00 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

### **R307. Environmental Quality, Air Quality.**

#### **R307-123. General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program.**

##### **R307-123-1. Authorization and Purpose.**

This rule is authorized by Section 19-1-405, which establishes criteria and definitions used to determine eligibility for use of the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403. R307-123 establishes procedures to provide proof of purchase to the Board for an OEM vehicle, or the conversion or retrofit of a vehicle for which a grant or loan made with the monies available in the Fund is allowed under Subsection 19-1-403(2)(a). Eligible technologies are required to meet the criteria and follow the procedures established in R305-4.

##### **R307-123-2. Definitions.**

Definitions. The following additional definitions apply to R307-123.

"Certified by the Board" means that:

(1) A motor vehicle on which conversion equipment has been installed meets the criteria in Subsection 19-1-405(1)(a) and demonstrates a reduction in emissions as defined in Subsection 19-1-405(2); or

(2) A motor vehicle on which a retrofit has been installed meets the following criteria:

(a) the motor vehicle's emissions of regulated pollutants, when operating with the retrofit equipment, is less than the emissions were before the installation of the retrofit equipment; and

(b) a reduction in emissions under Subsection R307-123-2(2)(a) is demonstrated by:

(i) certification of the retrofit by the federal EPA or by a state whose certification standards are recognized by the Board; or

(ii) any other test or standard recognized by the Board.

"Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).

"Clean fuel vehicle" means clean fuel vehicle as defined in Subsection 19-1-402(2).

"Conversion equipment" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or special mobile equipment to make that vehicle or equipment eligible.

"Manufacturer's Statement of Origin" means a certificate showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser.

"Original equipment manufacturer (OEM) vehicle" means OEM vehicle as defined in Subsection 19-1-402(8).

"Retrofit" means retrofit as defined in Subsection 19-1-402(11).

"Retrofit equipment" means a diesel oxidation catalyst, a diesel particulate filter, or a closed crankcase filtration system, that has been approved for use in engine retrofit programs by the federal EPA or by a state whose testing protocols are recognized by the Board.

##### **R307-123-3. Demonstration of Eligibility for OEM Vehicles.**

To demonstrate that a vehicle is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1)(a) A copy of the Manufacturer's Statement of Origin or equivalent manufacturer's documentation showing that the vehicle is an OEM vehicle; or

(b) a signed statement by an Automotive Service Excellence (ASE) certified technician that includes the vehicle identification number (VIN) and states that the vehicle is an OEM vehicle;

(2) An original or copy of the purchase order, customer invoice, or receipt including the VIN; and

(3) A copy of the current Utah vehicle registration.

#### **R307-123-4. Demonstration of Eligibility for Vehicles Converted to Clean Fuels.**

To demonstrate that a conversion of a motor vehicle fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) the VIN;

(2) the fuel type before conversion;

(3) the fuel type after conversion;

(4)(a) If within a county with an inspection and maintenance (I/M) program, a copy of the vehicle inspection report from an approved station showing that the converted clean fuel vehicle meets all county emissions requirements for all installed fuel systems; or

(b) a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional;

(5) each of the following:

(a) the conversion equipment manufacturer,

(b) the conversion equipment model number,

(c) the date of the conversion, and

(d) the name, address, and phone number of the person that converted the vehicle;

(6) proof that the conversion is certified by the Board;

(7) an original or copy of the purchase order, customer invoice, or receipt; and

(8) a copy of the current Utah vehicle registration.

#### **R307-123-5. Demonstration of Eligibility for Retrofitted Vehicles.**

To demonstrate that a retrofit of a motor vehicle is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) the VIN;

(2) each of the following:

(a) the retrofit equipment manufacturer,

(b) the retrofit equipment model number,

(c) the date of the retrofit, and

(d) the name, address, and phone number of the person that retrofitted the vehicle;

(5) proof that the retrofit is certified by the Board;

(6) an original or copy of the purchase order, customer invoice, or receipt; and

(7) a copy of the current Utah vehicle registration.

**KEY:** air pollution, alternative fuels, grants and loans, motor vehicles

**Date of Enactment or Last Substantive Amendment:** 2008

**Authorizing, and Implemented or Interpreted Law:** 19-2-104; 19-1-401; 59-7-605; 59-10-1009

Environmental Quality, Air Quality

**R307-302-3**

No-Burn Periods for Fine Particulate

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR File No.: 31388

FILED: 05/07/2008, 15:22

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 09/21/2006, the Environmental Protection Agency (EPA) promulgated revisions to the National Ambient Air Quality Standards (NAAQS) for PM2.5. At that time, EPA strengthened the 24-hour PM2.5 standard from the 1997 level of 65 micrograms per cubic meter to 35 micrograms per cubic meter. Because of this new standard, the trigger for calling a mandatory no-burn period is above the current NAAQS. Therefore, this proposal updates the rule to reflect the new NAAQS. Rather than specifying a specific PM2.5 concentration, the revised rule will trigger a no-burn period when Utah Division of Air Quality (UDAQ) forecasts an exceedance of the NAAQS.

SUMMARY OF THE RULE OR CHANGE: Section R307-302-3 establishes a trigger to call a mandatory no-burn period for residential solid fuel burning devices and fireplaces. This rule applies in all of Salt Lake and Davis Counties, and in portions of Utah and Weber Counties. Under the current version of Section R307-302-3, a mandatory no-burn period is triggered when the ambient concentration of PM2.5 measured by the monitors in Salt Lake, Davis, Weber, or Utah Counties reaches the level of 52 micrograms per cubic meter, which is 80% of the 1997 PM2.5 NAAQS. On 09/21/2006, EPA promulgated revisions to the NAAQS for PM2.5, wherein the 24-hour PM2.5 standard was lowered from 65 micrograms per cubic meter to 35 micrograms per cubic meter. Because of this new standard, the trigger for calling a mandatory no-burn period contained in Section R307-302-3 is above the current NAAQS. Therefore, the Utah Air Quality Board is proposing to update the rule to be consistent with the new NAAQS. The Board is proposing that the revised rule language will trigger a no-burn period when UDAQ forecasts an exceedance of the NAAQS, rather than specifying a specific PM2.5 concentration. The Air Monitoring Center has used the new PM2.5 NAAQS to call the no-burn period since 2006, resulting in approximately 10 more no-burn days per season than in previous winters. The proposed change will not result in any more no-burn days, but it will allow UDAQ to enforce all of the mandatory no-burn days. However, UDAQ did not enforce the no-burn period until the ambient PM2.5 levels were above 52 micrograms per cubic meter, because the rule had not been changed to reflect the lowered standard. The proposed change will not result in any more no-burn days, but it will allow UDAQ to enforce all of the mandatory no-burn days.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No change in cost because existing staff will perform smoke patrol duties.

❖ LOCAL GOVERNMENTS: No change in costs because only residences are affected.



**R307. Environmental Quality, Air Quality.**

**R307-121. General Requirements: Clean Fuel Vehicle Tax Credits.**

**R307-121-1. Authorization and Purpose .**

This rule is authorized by Sections 59-7-605 and 59-10-1009. These statutes establish criteria and definitions used to determine eligibility for an income tax credit. R307-121 establishes procedures to provide proof of purchase to the [b]Board for an OEM vehicle or the conversion of a vehicle for which an income tax credit is allowed under Sections 59-7-605 and 59-10-1009.

**R307-121-2. Definitions.**

Definitions. The following additional definitions apply to R307-121.

"Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).

"Clean fuel vehicle" means clean fuel vehicle as defined in Subsection 19-1-402(2).

"Conversion equipment" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or special mobile equipment to make that vehicle or equipment eligible.

"Manufacturer's Statement of Origin" means a certificate showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser.

"Original equipment manufacturer(OEM) vehicle" is defined in Subsection 19-1-402(8).

**R307-121-3. Demonstration of Eligibility for OEM Vehicles.**

To demonstrate that a vehicle is eligible, proof of purchase shall be made by submitting the following documents to the executive secretary:

(1)(a) a copy of the Manufacturer's Statement of Origin or equivalent manufacturer's documentation showing that the vehicle is an OEM vehicle, or

(b) a signed statement by an Automotive Service Excellence (ASE) certified technician that includes the vehicle identification number (VIN) and states that the vehicle is an eligible OEM vehicle; and

(2) an original or copy of the purchase order, customer invoice, or receipt including the VIN; and

(3) a copy of the current Utah vehicle registration.

**R307-121-4. Demonstration of Eligibility for Vehicles Converted to Clean Fuels.**

To demonstrate that a conversion of a motor vehicle to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) the VIN;

(2) the fuel type before conversion;

- 1 (3) the fuel type after conversion;
- 2 (4)(a) if the vehicle is registered within a county with an
- 3 inspection and maintenance (I/M) program, a copy of the vehicle
- 4 inspection report from an approved station showing that the
- 5 converted clean fuel vehicle meets all county emissions
- 6 requirements for all installed fuel systems, or
- 7 (b) in all other areas of the State a signed statement by an
- 8 ASE certified technician that includes the VIN and states that the
- 9 conversion is functional;
- 10 (5) each of the following:
- 11 (a) the conversion equipment manufacturer,
- 12 (b) the conversion equipment model number,
- 13 (c) the date of the conversion, and
- 14 (d) the name, address, and phone number of the person that
- 15 converted the vehicle;
- 16 (6) proof of certification required in 59-10-1009(1)(b) or
- 17 59-7-605(1)(b);
- 18 (7) an original or copy of the purchase order, customer
- 19 invoice, or receipt; and
- 20 (8) a copy of the current Utah vehicle registration.

21  
22 **R307-121-5. Demonstration of Eligibility for Special Mobile**  
23 **Equipment Converted to Clean Fuels.**

24 To demonstrate that a conversion of special mobile equipment  
25 to be fueled by clean fuel is eligible, proof of purchase shall be  
26 made by submitting the following documentation to the executive  
27 secretary:

- 28 (1) a description, including serial number, of the special
- 29 mobile equipment for which credit is to be claimed;
- 30 (2) the fuel type before conversion;
- 31 (3) the fuel type after conversion;
- 32 (4) the conversion equipment manufacturer and model number;
- 33 (5) the date of the conversion;
- 34 (6) the name, address and phone number of the person that
- 35 converted the special mobile equipment; and
- 36 (7) an original or copy of the purchase order, customer
- 37 invoice, or receipt; and
- 38 (8) proof of certification required in 59-10-1009(1)(b) or
- 39 59-7-605(1)(b).

40  
41 **KEY: air pollution, alternative fuels, tax credits, motor**  
42 **vehicles**

43 **Date of Enactment or Last Substantive Amendment: 2008**

44 **Notice of Continuation: July 13, 2007**

45 **Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-**  
46 **402; 59-7-605; 59-10-1009**

(g) the amount of a loan for any vehicle will exceed the provisions in 19-1-403(2)(b) minus the amount of any tax credit claimed under Sections 59-7-605 or 59-10-1009; or

(h) the amount to be loaned for the purchase of vehicle refueling equipment will exceed the provisions in Subsection 19-1-403(2)(d)(ii).

(2) The total combined loans approved annually shall not exceed \$250,000.

(3) The maximum amount that may be approved by the Department for a loan is \$100,000; the minimum amount that may be approved is \$5,000.

(4) Awards for applicants applying for both a grant and loan will not exceed the actual cost of the approved project, minus the amount of any tax credit claimed under Sections 59-7-605 or 59-10-1009.

#### **R305-4-10. Servicing the Loans and Loan Repayment.**

(1) Loan repayment schedules shall:

(a) not exceed ten years, as required by Subsection 19-1-404(2)(b);

(b) be based on the financial situation and income circumstances of each borrower;

(c) be amortized with equal payment amounts;

(d) be of such amount to pay all interest and principal in full; and

(e) consider projected savings from use of the clean fuel vehicle as required by Subsection 19-1-404(2)(a). In determining projected savings, the Department may use all current and relevant market cost information.

(2) The initial installment payment is due on a date established by the Department.

(3) Subsequent installment payments are due:

(a) on the first day of each month for private sector businesses; or

(b) as determined by the Department for government entities.

(4) A notice of payment and due date shall be sent for each subsequent payment. Non-receipt of the statement of account or notice of payment shall not be a defense for non-payment or late payment.

(5) Loans made from the fund for a government vehicle shall be made with no interest rate as required by Subsection 19-1-404(2)(d).

(6) Loans made from the fund for a private sector vehicle shall be made at an interest rate provided by Subsection 19-1-404(2)(c).

(7) Any changes in interest rates, renegotiation of contract terms or elimination of debt must receive approval by the Department.

(8) Loan payments received shall be applied first to penalty, next to interest, and then to principal.

(9) Loan payments may be made in advance or the remaining principal balance of the loan may be paid in full at any time without penalty.

(10) Penalties for late loan payments shall be:

(a) ten percent of the payment due;

(b) assessed and payable on payments received by the Department more than 15 days after the due date;

(c) assessed only once per scheduled payment; and

(d) noticed to the borrower with the amounts of penalty and the total payment due.

(11) Payments shall be considered received the day of the U.S. Postal Service post mark date or receipted date for payments delivered to the Department by methods other than the U.S. Postal Service.

(12) If a loan payment check is returned due to insufficient funds, a service charge in the amount allowed by law shall be added to the payment amount due.

(13) Notice of loans paid in full shall be sent after all penalties, interest, and principal have been paid.

#### **R305-4-11. Recovering on Defaulted Loans.**

(1) Loans may be considered in default when three consecutive payments are past due by 30 days or more.

(2) If the loan is determined to be in default under R305-4-11(1), the Department or Division of Finance may declare the full amount of the defaulted loan, penalty, and interest immediately due.

(3) The Department or Division of Finance need not give notice of default prior to declaring the full amount due and payable.

(4) The borrower shall be liable for attorney's fees and collection costs for defaulted loans, whether incurred before or after court action.

#### **R305-4-12. Review.**

The Department reserves the right to review all data and applicants for continued compliance with this rule during the period the approved applicant has an outstanding loan obligation. The Department further reserves the right to request supplemental information it may deem necessary from an applicant in order to effectively administer the program and this rule.

#### **R305-4-13. Indemnification.**

The state government of Utah, any subdivision, or any agent of state government with responsibility for or obligation to the program cannot be held liable for injury or damage to persons, vehicles or other property caused by or involved with any equipment or vehicle purchased or converted to use a clean fuel or retrofitted in this program.

**KEY:** air pollution, alternative fuels, grants and loans, motor vehicles

**Date of Enactment or Last Substantive Amendment:** 2008

**Authorizing, and Implemented or Interpreted Law:** 19-2-104; 19-1-401

## **Environmental Quality, Air Quality**

# **R307-121**

## **General Requirements: Clean Fuel Vehicle Tax Credits**

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR File No.: 31389

FILED: 05/07/2008, 15:25

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the change is to add clarifying definitions and to modify the language throughout Rule R307-121 so that it is consistent with a related new Rule R307-123 (see separate filing on Rule R307-123, in this issue.) (DAR NOTE: The proposed new Rule R307-123 is found under DAR No. 31390 in this issue, June 1, 2008, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The Air Quality Board is proposing to add the definitions of clean fuel, clean fuel vehicle, and Manufacturer's Statement of Origin to Rule R307-121. The Board is also proposing to make other changes to the language throughout Rule R307-121 that will ensure that it is consistent with a related new Rule R307-123 (see separate

filing on Rule R307-123, in this issue.) This amendment also makes some other technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104, 59-7-605, and 59-10-1009

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no change in costs for state government because this revision does not create any new requirements.
- ❖ LOCAL GOVERNMENTS: Because the amendment does not create new requirements for sources owned or operated by local government, no change in costs is expected for other persons.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small Businesses: Because the amendment does not create new requirements for sources, no change in costs is expected for small business. Other Persons: Because the amendment does not create new requirements for sources, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the amendment does not create new requirements for sources, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No change in costs is expected for businesses, because the amendment does not create new requirements for sources. Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/20/2008 at 2:00 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

**R307. Environmental Quality, Air Quality.**

**R307-121. General Requirements: Clean Fuel Vehicle Tax Credits.**

**R307-121-1. ~~Authorization and Purpose~~ and Authorization.**

This rule is authorized by Sections 59-7-605 and 59-10-1009. These statutes establish criteria and definitions used to determine eligibility for an income tax credit. R307-121 establishes procedures to provide proof of purchase to the [b]Board for an [item]OEM vehicle or the conversion of a vehicle for which an income tax credit is allowed under Sections 59-7-605 and 59-10-1009.

**R307-121-2. Definitions.**

Definitions. The following additional definitions apply to R307-121.

"Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).

"Clean fuel vehicle" means clean fuel vehicle as defined in Subsection 19-1-402(2).

"Conversion Equipment" means a package which may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or special mobile equipment to make that vehicle or equipment eligible.[

— "Eligible" means:

- (i) an OEM vehicle; or
- (ii) a vehicle or special mobile equipment on which conversion equipment has been installed that meets the definition of "Certified by the Board" that is found in 59-7-605 and 59-10-1009.]

"Manufacturer's Statement of Origin" means a certificate showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser.

"Original equipment manufacturer (OEM) vehicle" is defined in Subsection 19-1-402(8).

**R307-121-3. ~~(Procedures)~~Demonstration of Eligibility for OEM Vehicles.**

To demonstrate that a vehicle is eligible, proof of purchase shall be made by submitting the following documents to the executive secretary:

- (1)(a) a copy of the Manufacturer's Statement of Origin or equivalent manufacturer's documentation showing that the vehicle is an OEM vehicle, or
- (b) a signed statement by an Automotive Service Excellence (ASE) certified technician that includes the vehicle identification number (VIN) and states that the vehicle is an eligible OEM vehicle; and
- (2) an original or copy of the purchase order, customer invoice, or receipt including the [vehicle identification number (VIN)]VIN; and
- (3) a copy of the current Utah vehicle registration.

**R307-121-4. ~~(Procedures)~~Demonstration of Eligibility for Vehicles Converted to Clean Fuels.**

To demonstrate that a conversion of a motor vehicle to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

- (1) the VIN;
- (2) the fuel type before conversion;
- (3) the fuel type after conversion;

(4)(a) if the vehicle is registered within a county with an inspection and maintenance (I/M) program, a copy of the vehicle inspection report from an approved station showing that the converted [alternate]clean fuel vehicle meets all county emissions requirements for all installed fuel systems, or

(b) in all other areas of the State a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional;

(5) each of the following:

(a) the conversion [system]equipment manufacturer,

(b) the conversion [system]equipment model number,

(c) the date of the conversion, and

(d) the name, address, and phone number of the person that converted the vehicle;

(6) proof of certification required in 59-10-1009(1)(b) or 59-7-605(1)(b); and

(7) an original or copy of the purchase order, customer invoice, or receipt; and

(7)(8) a copy of the current Utah vehicle registration.

**R307-121-5. [Procedures]Demonstration of Eligibility for Special Mobile Equipment Converted to Clean Fuels.**

To demonstrate that a conversion of special mobile equipment to be fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

(1) a description, including serial number, of the special mobile equipment for which credit is to be claimed;

(2) the fuel type before conversion;

(3) the fuel type after conversion;

(4) the conversion [system]equipment manufacturer and model number;

(5) the date of the conversion;

(6) the name, address and phone number of the person that converted the special mobile equipment; and

(7) an original or copy of the purchase order, customer invoice, or receipt; and

(7)(8) proof of certification required in 59-10-1009(1)(b) or 59-7-605(1)(b).

**KEY:** air pollution, alternative fuels, tax credits, motor vehicles  
Date of Enactment or Last Substantive Amendment: [July 13, 2007]2008

Notice of Continuation: July 13, 2007

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-402; 59-7-605; 59-10-1009

**Environmental Quality, Air Quality  
R307-123  
General Requirements for Clean Fuels  
and Vehicle Technology Grant and  
Loan Program**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 31390

FILED: 05/07/2008, 15:27

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of Rule R307-123 is to specify the requirements for qualifying technologies to be awarded grant and loan monies from the Clean Fuels and Vehicle Technology Fund. The procedures for providing grants and loans for qualifying technologies from the Fund can be found under Rule R305-4 (see separate filing on Rule R305-4, in this issue). (DAR NOTE: The proposed new Rule R305-4 is found under DAR No. 31391 in this issue, June 1, 2008, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The Clean Fuels and Vehicle Technology Program Act, Section 19-1-401 through 19-1-405, creates the Clean Fuels and Vehicle Technology Fund in Section 19-1-403. Section 19-1-405 authorizes the Air Quality Board to make rules to establish state-wide eligibility requirements for technologies qualified to be awarded grant and loan monies from the Fund. The Division of Air Quality (DAQ) staff created Rule R307-123 to specify these requirements. As proposed, the rule defines certification criteria and proof of purchase requirements for eligible technology. A summary of the provisions included in Rule R307-123 are as follows: 1) eligible equipment to receive monies from the fund is specified as new original equipment manufacturer (OEM) vehicles, motor vehicles that have been converted to use a clean fuel, and motor vehicles that have been retrofitted to reduce pollution emissions; 2) certification criteria for motor vehicle conversions, including pollution reduction requirements, are defined in the enabling statute, Section 19-1-405; 3) certification criteria and for motor vehicle retrofits, including pollution reduction requirements and eligible technology, are defined; and 4) proof of purchase requirements for eligible equipment are specified. Section 19-1-404 of the Act authorizes the Department of Environment Quality (DEQ) to establish the procedures for providing grants and loans for qualifying technologies from the Clean Fuels and Vehicle Technology Fund. The DEQ is proposing Rule R305-4 (see separate filing on Rule R305-4 in this issue) to specify these procedures.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 19-2-104 and 19-1-401

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no change in costs for the state budget, because costs for administering the program are already allocated from the Fund and nominal fees for purchasing credit reports for applicants will be recouped from application fees. State government entities that wish to apply for the program are subject to application fees of \$140 for loan applications, \$280 for grant applications, and \$350 for infrastructure applications. Because this is a new program, the actual amount of applications is unknown at this time.

❖ **LOCAL GOVERNMENTS:** There is no change in costs for sources owned or operated by local government. However, local government entities that wish to apply for the program